

*Draft*



*Gaithersburg*

*A CHARACTER COUNTS!*

CITY OF GAITHERSBURG  
MINUTES OF A REGULAR CITY COUNCIL MEETING  
MONDAY, JULY 9, 2007

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A meeting of the Mayor and City Council was called to order at 7:30 p.m., Mayor Katz presiding. Council Members present: Alster, Edens, Marraffa, Schlichting and Sesma. Staff present: City Manager Humpton, Assistant City Managers Felton and Tomasello, Director of Public Works, Parks Maintenance and Engineering Arnoult, Planning and Code Administration Director Ossont, Director of Planning Pruss, Community Development Director Kauffmann, Information Technology Director Cottrell, Human Resources Director Kee, Human Resources Generalists Eyler, Human Resources Technician Climaco, Lt. Campbell, Recreation Program Director McGuire, Olde Towne Revitalization Coordinator Hines, City Attorney Borten and Executive Assistant Stokes. Planning Commissioners present for joint public hearing: Bauer, Hopkins, Kaufman, Lanier and Levy.

**I. PLEDGE OF ALLEGIANCE**

The Pledge was led by Cindy Climaco, Gaithersburg, Maryland.

**II. INVOCATION**

In lieu of an invocation, Mayor Katz called for a moment of silence.

**III. APPROVAL OF MINUTES**

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the minutes of the Mayor and Council meeting held June 18, 2007, be approved.

Vote: 5-0

**IV. CONSENT ITEMS**

**1. Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into a Contract to Purchase a Firearms and Taser Training Simulator**

This resolution authorized the City Manager to enter into a contract to purchase the above from IES Interactive Training, Inc., 1229 Oak Valley Drive, Ann Arbor, Michigan 48108, in the amount not to exceed Fifty-Three Thousand Seven Hundred Ninety Dollars (\$53,790); said funds to be expended from the Operating Budget

**2. Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into a Contact to Purchase Two (2) Ford Escape Hybrids**

This resolution authorized the City Manager to enter into a contract to purchase the above from Hertrich Fleet Services, Inc., 1123 Shore Highway, Denton, Maryland 21629, in the amount Fifty Thousand Five Hundred Fifty-Two Dollars (\$50,552); said funds to be expended from the Operating Budget

3. **Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into a Contract to Purchase One (1) 2008 One Ton Dump Truck**

This resolution authorized the City Manager to enter into a contract to purchase the above from Criswell Chevrolet, 503 Quince Orchard Road, Gaithersburg, Maryland 20878, in the amount of Fifty-Seven Thousand Five Hundred Fifty-Seven Dollars (\$57,557); said funds to be expended from the Operating Budget

4. **Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into a Contract to Provide Equipment and Personnel to Perform Loose Leaf Pickup**

This resolution authorized the City Manager to enter into a contract for the above services with C&C Custom Lawncare, Inc., 11906 Fingerboard Road, Monrovia, Maryland 21770, in an amount not to exceed Forty Thousand Dollars (\$40,000); said funds to be expended from the Operating Budget

5. **Resolution of the Mayor and City Council Authorizing the City Manager to Enter Into Agreements With Stepping Stones Shelter (\$23,500) and Liberty's Promise (\$20,000) for FY '08 Public Service Grants Through the Community Development Block Grant Program**

Pursuant to the terms of the Community Development Block Grant program, the Mayor and City Council had determined that it is in the best interest of the City to execute an agreement with Stepping Stones Shelter, P.O. Box 712, Rockville, Maryland 20850, in an amount not to exceed Twenty-Three Thousand Five Hundred Dollars (\$23,500), and with Liberty Promise, 1010 Pendleton Street, Alexandria, Virginia 22314-1837, in an amount not to exceed Twenty Thousand Dollars (\$20,000); said funds to be expended from the Operating Budget.

Motion was made by Council Member Sesma, seconded by, Council Member Edens, that Consent Agenda (Resolution Nos. R-63-07 and R-67-07), be approved.

Vote: 5-0

V. **APPOINTMENTS**

**Resolution Confirming Appointments and Reappointments by the Mayor**

This resolution confirmed the following: **Animal Control Board**, Robert Moore (reappointment), 7 Montgomery Village Avenue, 20877, three year term; **Arts and Monuments Funding Corporation**, J. Persensky (reappointment), 116 Summit Hall Road and Linda Hanson (reappointment), 300 East Diamond Avenue, 20877, three-year terms; **Art in Public Places Committee**, Nora Caplan (reappointment), 102 Booth Street, 20878, two-year term; **Commission on Landlord/Tenant Affairs**, Jean Noah (reappointment), 313 Main Street, 20878, three-year term; **Education Committee**, Mike Bucci (reappointment), 114 Woodland Road, 20877, Ellie Eldredge (reappointment), 3 Thorburn Place, 20878, Lee Manuel (reappointment), 230 Rolling Road, 20877, Eileen Shea (reappointment), 209 West Deer Park Road, 20877, James Steven (reappointment), 344 Alfandre Street, 20878, two-year terms; **Gaithersburg/Washington Grove Fire Department**, Richard Knoebel (reappointment), 202 Rolling Road, 20877 and Carroll Kearns (reappointment), 406 Gaither Street, 20877, one-year terms; and the **Police Chief's Advisory Council**, Clark Day (appointment), 26 Walker Avenue, 20877, two-year term.

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that a RESOLUTION OF THE CITY COUNCIL CONFIRMING APPOINTMENTS AND REAPPOINTMENTS BY THE MAYOR TO THE ANIMAL CONTROL BOARD, ARTS AND MONUMENTS FUNDING CORPORATION, ART IN PUBLIC PLACES COMMITTEE, COMMISSION ON LANDLORD/TENANT AFFAIRS, EDUCATION COMMITTEE, GAITHERSBURG /WASHINGTON GROVE FIRE DEPARTMENT, AND POLICE CHIEF'S ADVISORY COUNCIL (Resolution No. R-68-07), be approved with correction.

Vote: 5-0

## VI. PRESENTATIONS

### 1. Introduction of the City's 40th Griffith Intern

The Griffith Internship, named in memory of Mayor John W. Griffith, was designed to provide an outstanding high school student with the opportunity to experience the work environment in a municipal government setting. Each year, one Gaithersburg High School student, either a rising or graduating senior, is chosen through an interview process to be the Griffith intern for an eight-week period during the summer. The intern receives local government experience during this period while working in the City Manager's Office at City Hall.

George Hernandez was selected for this year's Griffith Intern. While at Gaithersburg High School, he was involved in several activities including varsity football and track. Taking classes at Montgomery College while still in high school, he maintained a 3.8.GPA. This fall George will enter the Scholars Program at the University of Maryland, College Park, majoring in government and politics.

### 2. Fourth Quarter Employee Recognition Awards

City Manager Humpton and Mayor Katz congratulated and recognized the employee and team winners of the Fourth Quarter, March 1, 2007 – May 31, 2007.

**Robert "Bobby" Johnson**, Supervisor, **Public Works, Parks Maintenance & Engineering**, was nominated for the excellent work he does and always willing to go over and beyond his everyday duties to assist others.

**Cindy Hines**, **Olde Towne Revitalization Coordinator, CMO**, was nominated for the excellent work on a one-time project (City's anti-solicitation ordinance).

**Streets & Special Projects Team, Public Works – Charles Anderson, Dave Arthur, Salvador Carmona, Ralph Harris, George Smith, Tom Mosher, Lorie Calliste, Stan Palmer, Anthony Fitzpatrick, Tom Kapeluch**, was nominated for the excellent work on an on-going basis with the City's sidewalks, stormwater management, and street projects.

**Human Resources Team, Human Resources – Margaret Kee, Marjie Eyler, Kim Yocklin, Gilma Climaco**, was nominated for the excellent work on an on-going basis providing superb, dedicated service to each and every City employee (250 full-time employees and about 750 during summer) and retirees (over 40 retirees).

**3. Presentation from Verizon on the Implementation of the FiOS System**

Briana Gowling, Assistant Vice President External Affairs, Verizon – Maryland, gave a brief presentation relating to FiOS broadband internet service. She presented a description of the service, the process, and possible timeline for its implementation to Gaithersburg residents. In response to a question as to when residents can expect service, she stated that the rollout will take approximately six months beginning in their central office. She further stated that once the fiber is installed underground, the rollout will begin with the residents of Gaithersburg. The City asked for a commitment from Verizon that the service will be available to all residents. Verizon – Maryland will be required to file an application for a franchise to provide video programming services via FiOS.

**VII. PUBLIC APPEARANCES**

*Mike Stumborg, 104 Brookes Avenue*, referred to the open day laborer center and the lack of usage by the laborers. He asked that the City re-engage the County and their contractor to urge the laborers to use the facility on Crabbs Branch Way. He stated that there is currently a safety concern with laborers being picked up along MD 355 from Duron Paint store down towards the bridge. The City Council directed staff to remind businesses along MD 355 of the anti-solicitation ordinance and ask them to discourage such activity.

City Manager Humpton stated that he was contacted by the center's manager stating that the first report on how the center is operating is available. Following staff's review, the report will be forwarded to the Mayor and City Council and put on the City's website for the public.

**VIII. FROM THE MAYOR AND CITY COUNCIL/ANNOUNCEMENTS****Council Vice President Alster**

1. Announced a closed executive session was held on Monday, June 18, 2007 at approximately 11 p.m., pursuant to a motion adopted 3-0-2 (abstained: Schlichting and Sesma) at a public meeting held immediately prior to the close meeting also on June 18, 2007. The meeting was closed pursuant to Section 10-508(a)(7), State Government Article, of the Annotated Code of Maryland, to consult with legal counsel to obtain legal advice. The topics discussed were legal issues and potential liabilities raised by a veto of an ordinance enacting the FY'08 budget, and the processes for proceeding after said veto. Present at the meeting were Mayor Katz, Council Members Alster, Edens, Marraffa, and Sesma, City Attorney Borten and staff. Upon conclusion of the discussion, the closed meeting was adjourned at approximately 11:30 p.m.
2. Commended City staff on handling the uncertainty of the weather for the 4<sup>th</sup> of July Celebration at the fairgrounds.
3. Mentioned the All Aboard the Art Train project ready for viewing throughout the Gaithersburg community. He stated that the art trains combines Gaithersburg's railroad with art representing the past, present and future. The trains showcase the talent of local artists.

**Council Member Marraffa**

1. Echoed thanks to City staff for the 4<sup>th</sup> of July Celebration.
2. Attended the Quince Orchard Park 4<sup>th</sup> of July Annual Parade and West Riding's 2<sup>nd</sup> Annual Celebration. Thanked the communities for the invitation to participate.
3. Will attend the National League of Cities Board of Directors meeting in Indianapolis. The Board's issue for the year is to be a stronger advocate for City policies with Congress. He stated that he will report back to the City Council following the meeting.

4. Reported that the President visited the Air National Guard in Martinsburg, West Virginia where he served for six years as a control tower operator and firing ranger officer with the air police, but he was able to be in attendance to meet the President.

#### **Council Member Sesma**

1. Reported that he, Mayor Katz, Council Members Alster and Marraffa attended the 2007 Maryland Municipal League (MML) Convention. He stated that the larger cities met and discussed major issues such as redevelopment, traffic and affordable housing. Stated that Animal Control Officer Jorge Esmieu was recognized by the league as the Municipal Employee of the Year for his outstanding service. In addition, he reported that a number of workshops were attended by Gaithersburg's Officials which focused on preservation of open space, affordable housing, residential overcrowding, and gang activity in various municipalities.
2. Echoed congrats and praised the 4<sup>th</sup> of July Celebration fireworks display finale.
3. Announced the free performance of "As You Like It" presented by the Chesapeake Shakespeare Company on Friday and Saturday, July 13 and 14, 8 p.m. at the City Hall Concert Pavilion.

#### **Council Member Edens**

1. Congratulated Mayor Katz on his election as the First Vice President of the Maryland Municipal League.
2. Referred to a memorandum dated July 5, 2007 for a potential Charter Amendment in regards to the budget. All concurred to the amendment and directed staff to proceed with the matter.

#### **Council Member Schlichting**

Announced the vacancies on various City committees.

#### **Mayor Katz**

1. Noted that in addition to City employee Esmieu receiving recognition from MML, a couple of years ago, Jimmy Frazier-Bey was also a recipient of the prestigious award.
2. Announced the following vacant positions on the Planning Commission and Board of Appeals:
  - John Bauer, PC, term expired August 1, 2007, seeking reappointment
  - David Friend, Victor MacDonald, and Gary Trojak, BOA Members, terms to expire September 1, 2007, all seeking reappointment

Mayor Katz asked that letters of interest be submitted by 5 p.m., August 13, 2007. The Mayor and City Council plan to conduct interviews for those that apply.

3. Announced the City will hold an election on Tuesday, November 6, 2007, for three positions on the City Council. Residents interested in running for office can pick up a candidate's packet at City Hall, 31 South Summit Avenue, 2<sup>nd</sup> floor, on Tuesday, July 10, 2007. Candidates must be qualified voters in the City at the time of the election and must be City residents immediately preceding their election. Mayor and City Council Members must reside in the City during their term in office.
4. Announced the following meeting schedule:
  - work session on Monday, July 16, 2007, to discuss alternatives for homeownership assistance programs
  - regular meeting on Monday, July 23, 2007

**IX. FROM THE CITY MANAGER**

Staff recommended establishing a Skate Park Task Force to research and analyze skate parks city-wide. Staff believes there is a need throughout the Gaithersburg communities, but recommended further study be done. The task force would be charge to: develop a comprehensive plan for skating components within City parks that best meet the needs of the City as a whole by November 1, 2007; research and discuss the trends in skate parks, including but not limited to access, size, design, liability safety, components of supervision in communities throughout the country. Staff's suggesting scheduling three workshops around the City and justify to the Mayor and City Council the best locations.

Several Council Members agreed to move forward and allow 30 days for residents to submit letters of interest to serve on the task force.

**X. PUBLIC HEARING**

**JOINT - Z-305(o), Application Requests Rezoning of 8,673 Square Feet of Land, Part of What is Currently Known as Parcel 100, in the Oakmont Subdivision, Located at 100 Central Avenue, in the City of Gaithersburg, From the Existing R-A (Low Density Residential) Zone to the R-90 (Medium Density Residential) Zone, Under the Optional Method of Rezoning, in Accordance With §24-196 (map amendments) and §24-198 (optional method) of the City Code**

Director of Planning Pruss stated the joint public hearing was advertised in the *Gaithersburg Gazette* on June 20 and 27, 2007 and nine exhibits are in the reference file. The Mayor and City Council and Planning Commission were oriented to the site. In 2002, the property was granted concept site plan approval to allow for three additional homes to be constructed on the property. The 2003 Land Use Element of the Master Plan recommended that the stream valley buffer (2.5 acres) located on the property be rezoned to R-A. In 2004, the Natural Resources Inventory was submitted which identified additional area that needed to be included in the stream valley buffer and increase the area that was subsequently rezoned to R-A. In 2005, the property was rezoned with 2.8 acres zoned R-A and 0.74 acres to CD. She stated that the rezoning left insufficient land area for approved three homes. Approximately 1.14 acres are required and only .96 acres remain zoned R-90. The applicant is requesting 8,673 square feet of land be rezoned back to R-90 to allow for sufficient land for the three homes, originally granted concept site plan approval. The proposed rezoned area will be under the control of a conservation easement, preventing additional development.

*Matt Smith, Engineer for the Applicant*, reiterated the request to be rezoned and reviewed the site layout of the three additional lots including the historic structure currently on the site. He referred to the area to be rezoned known as the outlot which will be maintained by MacroLand.

There were no speakers at the hearing.

Motion was made by Commissioner Levy, seconded by Commissioner Kaufman, that the Planning Commission close their record on Wednesday, July 18, 2007, 5 p.m., on the above matter.

Vote: 5-0

Motion was made by Council Member Marraffa, seconded by Council Member Edens, that the Mayor and City Council close their record Friday, July 27, 2007, 5 p.m., on the above matter.

Vote: 5-0

Policy discussion and final action is anticipated on Monday, August 6, 2007.

**XI. ORDINANCES, RESOLUTIONS, AND REGULATIONS****1. Resolution to Purchase Additional In-Car Digital Video Systems**

This resolution authorized the City Manager to purchase the above from ICOP Digital, Inc., 16801 West 116<sup>th</sup> Street, Lenexa, Kansas 66219, in an amount not to exceed One Hundred Thirty-Six Thousand Dollars (\$136,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Schlichting, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO PURCHASE ADDITIONAL IN-CAR DIGITAL VIDEO SYSTEMS (Resolution No. R-69-07), be approved.

Vote: 5-0

**2. Resolution Approving Services for the Community Use of Public Facilities And Bus Transportation**

This resolution approved utilizing the services above provided by Montgomery County in the amount of One Hundred Fourteen Thousand Six Hundred Dollars (\$114,630) for the use of school facilities and services and Forty-One Thousand Dollars (\$41,000), for bus transportation; said funds to be expended from the Operating Budget.

Motion was made by Council Member Alster, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL APPROVING SERVICES PROVIDED BY THE MONTGOMERY COUNTY PUBLIC SCHOOLS FOR THE COMMUNITY USE OF PUBLIC FACILITIES AND BUS TRANSPORTATION (Resolution No. R-70-07), be approved.

Vote: 5-0

**3. Resolution for a Street Reconstruction Project**

This resolution authorized the City Manager to award a contract for reconstruction of the paving on Washingtonian Boulevard between Fields Road and Rio Boulevard, as well as Rio Boulevard between Washingtonian Boulevard and Fields Road to Olney Masonry Corporation, 11343 University Boulevard, Suite 490, Ellicott City, Maryland 21043, in the estimated amount of One Million One Hundred Thirty-Two Thousand Three Hundred Dollars (\$1,132,300); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR A STREET RECONSTRUCTION PROJECT (Resolution No. R-71-07), be approved.

Vote: 5-0

**4. Resolution Awarding Matching Grants**

This resolution authorized the City Manager to award matching grants to Diamond Farm Homes Corporation for fencing and benches, in the amount of Five Thousand Dollars (\$5,000), and Montgomery Meadows Homeowners Association for resurfacing and fencing, in the amount of Five Thousand Dollars (\$5,000), upon determining that the projects are completed as proposed, in the total amount of Ten Thousand Dollars (\$10,000); said funds to be expended from the Capital Improvements Budget.

Motion was made by Council Member Edens, seconded by, Council Member Sesma, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL AWARDING MATCHING GRANTS TO DIAMOND FARM HOMES CORPORATION, AND MONTGOMERY MEADOWS HOMEOWNERS ASSOCIATION (Resolution No. R-72-07), be approved.

Vote: 5-0

**XII. POLICY DISCUSSION AND STAFF GUIDANCE**

Planning and Code Administration Director Ossont oriented the Mayor and City Council to the site, reviewed the proposed structures and units for the application. He stated that there were policy issues associated with the application and provided an update on design issues such as streetscape and circulation which were discussed during the February 2007 work session. He pointed out that the proposed sidewalks on MD 355 will be 18 feet from the curbline. Staff has been working with the tenant association regarding a final tenant relocation package which exceeds the legal requirements by the City. Staff has added condition #13 to the SDP resolution. The applicant has voluntarily agreed to submit a signed declaration of covenants prior to close of the record for final site plan review which will preclude the applicant from re-occupying the apartments after the last tenant has been relocated. The applicant has also agreed to forward funds for half of the anticipated permit revenue from the project at the time of approval which is approximately \$250,000. The four agenda items below relate to the redevelopment project of the Broadstone Apartments located at the intersection of MD 355 and West Deer Park Road in the City of Gaithersburg.

Assistant City Manager Felton stated that staff has held a series of meeting with tenants and representatives of Action in Montgomery, as well as working closely with Fairfield Broadstone LP. He further stated that a tentative final meeting is scheduled for Wednesday, July 11, 2007, so that the relocation process and tenants can begin to leave with full benefits. City Manager Humpton questioned the Planning Commission's recommendation #11. Mr. Ossont stated that language has been revised to state that the applicant must negotiate and execute the agreement in agreement that outlines the tenant relocation plan with the City Manager prior to final site plan approval.

**1. Z-304, Application to Rezone 14.157 Acres of Land, Currently Known as Part Parcel A Lots N-943; N-994; N-888; & N-939, the Broadstone Apartments**

Motion was made by Council Member Edens, seconded by, Council Member Schlichting, that AN ORDINANCE TO REZONE 14.157 ACRES OF LAND, CURRENTLY KNOWN AS PART PARCEL A LOTS N-943; N-994; N-888; & N-939, THE BROADSTONE APARTMENTS, LOCATED AT THE INTERSECTION OF MD 355 AND WEST DEER PARK ROAD IN THE CITY OF GAITHERSBURG, FROM THE EXISTING R-20 (MEDIUM DENSITY RESIDENTIAL) ZONE TO THE CD (CORRIDOR DEVELOPMENT) ZONE, IN ACCORDANCE WITH §24-196 (MAP AMENDMENTS) AND §24-160G.6 (PROCEDURE FOR APPLICATION AND APPROVAL) OF THE CITY CODE (Ordinance No. O-10-07), be approved.

Vote: 5-0

**2. SDP-06-004, Applicant Requests the Redevelopment of 14.157 Acres of Land, Currently Known as Part Parcel A Lots N-943; N-994; N-888; & N-939, the Broadstone Apartments**

Motion was made by Council Member Schlichting, seconded by, Council Member Alster, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL OF GAITHERSBURG GRANTING APPROVAL OF SCHEMATIC DEVELOPMENT PLAN SDP-06-004, KNOWN AS FAIRFIELD AT WEST DEER PARK, FOR APPROXIMATELY 14.157 ACRES OF PROPERTY ZONED CORRIDOR DEVELOPMENT (CD) (Resolution No. R-73-07), be approved with 13 conditions.

Vote: 5-0

**3. Resolution Granting Road Code Waiver Requests, SDP-06-004**

Motion was made by Council Member Sesma, seconded by, Council Member Marraffa, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL GRANTING ROAD CODE WAIVER REQUESTS FOR ROAD SECTIONS, RADII, AND INTERSECTION SPACING FOR THE FAIRFIELD AT WEST DEER PARK DEVELOPMENT, SDP-06-004 (Resolution No. R-74-07), be approved.

Vote: 5-0

**4. Resolution Granting Approval of a Height Waiver, SDP-06-004**

Motion was made by Council Member Alster, seconded by, Council Member Schlichting, that a RESOLUTION OF THE MAYOR AND CITY COUNCIL GRANTING APPROVAL OF A HEIGHT WAIVER AS PART OF SCHEMATIC DEVELOPMENT PLAN SDP-06-004, KNOWN AS FAIRFIELD AT WEST DEER PARK, FOR APPROXIMATELY 14.157 ACRES OF PROPERTY ZONED CORRIDOR DEVELOPMENT (CD) (Resolution No. R-75-07), be approved.

Vote: 5-0

Mr. Ossont added that another resolution regarding the environmental waivers will come before the Mayor and City Council at a later date which was also a condition on the SDP.

5. **Resolution of the Mayor and City Council of Gaithersburg Granting Approval of Schematic Development Plan SDP-04-001, Quince Orchard Park, Parcel A, The Vistas, Winter Walk Drive and Quince Orchard Road, Gaithersburg, Maryland**

Assistant City Manager Felton stated the above matter is the second policy discussion. At the June 18, 2007 discussion, the Mayor and Council expressed concern with condition #14 and stressed the importance of integration of the communities. He and Planning and Code Administration Director Ossont met with the Quince Orchard Park Board of Directors on Thursday, July 5, 2007 to address the concerns. Staff believed that there was an agreement to lead to annexation, but staff found out prior to this evening's meeting that no agreement had been met. Staff recommended that the Council deferred action to allow staff another opportunity to close an agreement between the parties involved. Assistant City Manager added that there are monetary issues to address and no formal agreement has been met. The City Council directed staff to push for an amenities agreement/memorandum of understanding.

Motion was made by Council Member Alster, seconded by Council Member Edens, that the Mayor and City Council defer action on the above matter.

Vote: 4-1 (Opposed: Marraffa)

**XIII. FROM STAFF**

- **Guidance on a Memorandum Dated July 5, 2007 Concerning the Montgomery County Annual Growth Policy (AGP) and Impact Taxes**

Assistant City Manager referred to the above memorandum stating that on May 18, 2007, staff sent a memorandum to the City Council that included the Montgomery County Planning Board's recommendations for the 2007 AGP and modifications to the impact tax legislation. He stated that while the County's AGP does not apply within the City, the County's impact taxes for both schools and transportation are applicable to development in the City.

Staff recommended the following: the county adopt the schools test similar to Gaithersburg and Rockville; that any impact tax increases be phased in over time to minimize hardship on development projects already in the pipeline; that Olde Towne, as a strategic economic development project, be exempt from the impact tax; and that development projects located in the vicinity of MARC stations (including Olde Towne and Metropolitan Grove Road) be given a 50 percent credit for the transportation impact tax. If Council concurred with staff's recommendations, then a letter would be sent to the County Council stating the City's position. Final action is expected by the County on July 31, 2007.

Several members expressed concern with the tax put on residential development when a school's capacity is between 110 percent and 135 percent of program capacity and its affect on affordable housing. Staff was directed to emphasize their concern along with staff's four recommendations above.

- **Guidance on a Memorandum Dated July 5, 2007 Concerning the Montgomery County's Gaithersburg Vicinity Master Plan Process**

Assistant City Manager Felton stated an inquiry from Montgomery Village Foundation President Robert Hydorn as to whether or not the City has taken a position on Montgomery County Planning Board's decision to divide the Gaithersburg Vicinity Master Plan. Staff believes from a planning perspective, that the Planning Board's decision has merit and does not recommend that the Mayor and City Council ask the County Council to modify the decision. Staff also believes that it is particularly important for the County to move forward with the Gaithersburg Vicinity West Plan due to issues associated with the CCT, John Hopkins, and the McGowan Tract. The Mayor and

City Council agreed with staff's recommendation.

- **Guidance on a Memorandum Dated July 5, 2007 Concerning a Proposed Amendment to Section 27 of the City Charter**

Assistant City Manager Felton stated the proposed charter amendment would eliminate the City's voter registry to reflect current practices whereby all City residents who participate in City Elections are registered with the Montgomery County Board of Elections. Staff was directed to draft the charter amendment and advertise for public hearing on July 23, 2007.

#### **XIV. ADJOURNMENT**

There being no further business to come before this session of the City Council, the meeting was duly adjourned at 9:15 p.m.

Respectfully submitted,

*Doris R. Stokes*

Doris R. Stokes  
Executive Assistant